

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36502/36503

STATE OF IDAHO,)	2010 Unpublished Opinion No. 325
)	
Plaintiff-Respondent,)	Filed: January 26, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
DOUGLAS RAY LANGLEY,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Order revoking probation and requiring execution of unified eight-year sentence with three-year determinate term for grand theft; order revoking probation and requiring execution of concurrent unified seven-year sentence with three-year determinate term for possession of a controlled substance, affirmed.

Molly J. Huskey, State Appellate Public Defender; Shannon N. Romero, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GUTIERREZ, Judge;
and GRATTON, Judge

PER CURIAM

Douglas Ray Langley pled guilty to grand theft. Idaho Code §§ 18-2403 (1), 18-2407(1)(b). The district court imposed a unified sentence of eight years with a determinate term of three years, suspended the sentence and placed Langley on supervised probation (Docket No. 36502). Thereafter, Langley was charged with possession of methamphetamine, possession of marijuana and possession of drug paraphernalia (Docket No. 36503). The district court consolidated both cases for purposes of entry of a plea and sentencing. Langley pled guilty to possession of methamphetamine, I.C. § 37-2732, and the remaining charges were dismissed. The district court imposed a unified sentence of seven years with four years determinate to run

concurrently with the sentence in Docket No. 36502. Langley admitted to violating several terms of the probation, and the district court consequently revoked probation in Docket No. 36502 and ordered execution of the original sentence. The district court retained jurisdiction in both cases and, after the period of retained jurisdiction, the district court suspended the sentences and placed Langley on supervised probation. Following another admitted probation violation, the district court again revoked Langley's probation in both cases and ordered execution of the original sentences to run concurrently.

Langley appeals, contending that the district court abused its discretion in revoking probation in these cases and in failing to *sua sponte* reduce his sentences upon revoking probation.

It is within the trial court's discretion to revoke probation if any of the terms and conditions of the probation have been violated. I.C. §§ 19-2603, 20-222; *State v. Beckett*, 122 Idaho 324, 325, 834 P.2d 326, 327 (Ct. App. 1992); *State v. Adams*, 115 Idaho 1053, 1054, 772 P.2d 260, 261 (Ct. App. 1989); *State v. Hass*, 114 Idaho 554, 558, 758 P.2d 713, 717 (Ct. App. 1988). In determining whether to revoke probation a court must examine whether the probation is achieving the goal of rehabilitation and consistent with the protection of society. *State v. Upton*, 127 Idaho 274, 275, 899 P.2d 984, 985 (Ct. App. 1995); *Beckett*, 122 Idaho at 325, 834 P.2d at 327; *Hass*, 114 Idaho at 558, 758 P.2d at 717. The court may, after a probation violation has been established, order that the suspended sentence be executed or, in the alternative, the court is authorized under Idaho Criminal Rule 35 to reduce the sentence. *Beckett*, 122 Idaho at 326, 834 P.2d at 328; *State v. Marks*, 116 Idaho 976, 977, 783 P.2d 315, 316 (Ct. App. 1989). A decision to revoke probation will be disturbed on appeal only upon a showing that the trial court abused its discretion. *Beckett*, 122 Idaho at 326, 834 P.2d at 328.

Sentencing is also a matter for the trial court's discretion. Both our standard of review and the factors to be considered in evaluating the reasonableness of a sentence are well established and need not be repeated here. See *State v. Hernandez*, 121 Idaho 114, 117-18, 822 P.2d 1011, 1014-15 (Ct. App. 1991); *State v. Lopez*, 106 Idaho 447, 449-51, 680 P.2d 869, 871-73 (Ct. App. 1984); *State v. Toohill*, 103 Idaho 565, 568, 650 P.2d 707, 710 (Ct. App. 1982). When reviewing the length of a sentence, we consider the defendant's entire sentence. *State v. Oliver*, 144 Idaho 722, 726, 170 P.3d 387, 391 (2007).

When we review a sentence that is ordered into execution following a period of probation, we do not base our review solely upon the facts existing when the sentence was imposed. *State v. Whittle*, 145 Idaho 49, 52, 175 P.3d 211, 214 (Ct. App. 2007). Rather we also examine all the circumstances bearing upon the decision to revoke probation and require execution of the sentence, including events that occurred between the original pronouncement of the sentence and the revocation of probation. *Id.*

Applying the foregoing standards, and having reviewed the record in this case, we cannot say that the district court abused its discretion either in revoking probation or in ordering execution of Langley's original sentences without modification. Therefore, the orders revoking probation and directing execution of Langley's previously suspended sentences are affirmed.